

An
Bord
Pleanála

Board Order
ABP-315139-22

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F22A/0469

Appeal by LDC Developments care of CWPA Planning and Architecture of Unit 10 North Street Business Park, Seatown West, Swords, County Dublin against the decision made on the 26th day of October, 2022 by Fingal County Council to refuse permission.

Proposed Development: Revisions to previously approved planning permission (planning register reference number F20A/0715) An Bord Pleanála reference number ABP-309777-21). The revisions will consist of the construction of an additional third floor above approved three-storey building with balconies to the west elevation and accommodating three two-bedroom and one one-bedroom apartments (four additional apartments in total) and provision of additional of bicycle parking spaces, all at The Elphin, 36 Baldoyle Road, Baldoyle, Dublin.

Decision

GRANT permission for the above proposed development for the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to:

- (a) the provisions of the Fingal County Development Plan 2023-2029,
- (b) the location of the proposed development within an area zoned 'LC' where permitted uses include residential,
- (c) the pattern of development in the surrounding area,
- (d) the proximity to public transport corridors,
- (e) the proximity to Sutton Dart Station, services at Sutton Cross, and to the seafront,
- (f) the design, scale and layout of the proposed development,
- (g) the existing function of the access laneway,
- (h) the submissions and observations received,
- (i) the planning history pertaining to the site, and
- (j) the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the development plan for the area, would have a positive impact on the streetscape of the laneway, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board having regard to, in particular:

- the setbacks proposed at third floor level,
- the separation distances between the proposed development and the existing neighbouring houses,
- the footprint of the apartment development as granted under ABP-309777-21 (F20A/0715), and
- the omission of apartment number 22 (as suggested by the Inspector),

considered that the proposed development would not result in an abrupt transition in scale as required under section 13.2 of the Fingal County Development Plan 2023-2029 and would not result in a development that was jarring, visually incongruous or overbearing in this urban neighbourhood. Furthermore, the Board considered that the impacts arising on access to daylight and sunlight, and overshadowing impacts, on adjacent properties was not to an extent that warranted refusal and that the guidance on such matters was largely met. The Board considered that the increase of these impacts on adjacent properties, when compared to the impacts arising from the development granted permission under ABP-309777-21, were marginal and the Board was satisfied the proposed development would not unduly impact on the amenities of adjoining residential property. The Board concurred with the Inspector's recommendation that the proposed development did not materially contravene the Fingal County Development Plan 2023-2029.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the proposed development shall be carried out and completed in accordance with the terms and conditions of the permission granted under An Bord Pleanála reference number ABP-309777-21 (planning register reference number F20A/0715) and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Apartment number 22 at the northern end of the third floor shall be omitted. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority amended plans, sections and elevations at a scale of not less than 1:200 indicating compliance with this condition.

Reason: In the interest of visual amenity and to protect the residential amenities of existing dwellings on adjacent lands.

4. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

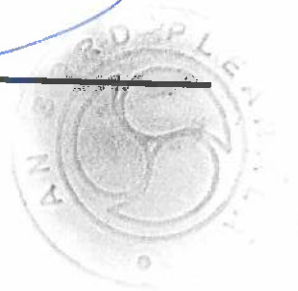


6. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in lieu of public open space provision. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.
- Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.



Tom Rabbette

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**



Dated this 31st day of July 2023.